

CORAM SHOWERS LIMITED & IMPEY SHOWERS LIMITED
CONDITIONS OF PURCHASE

1. Interpretation

1.1 **Definitions.** In these Conditions, the following definitions apply:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Contract: the contract between the Customer and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

Customer: means the company placing the order either being (a) Coram Showers Limited company number 00589581 or (b) Impey Showers Limited company number 03742299 both registered in England with the following registered office: Building 3, Stanmore Industrial Estate, Bridgnorth, Shropshire, WV15 5HP or (b)

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.

Intellectual Property Rights: patents, copyright and related rights, trade marks, rights in designs, database rights and all other intellectual property rights.

Order: the Customer's order for the supply of Goods and/or Services.

Services: the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Service Specification: the description or specification for Services agreed in writing by the Customer and the Supplier.

Supplier: the person or firm from whom the Customer purchases the Goods and/or Services.

1.2 **Construction.** In these Conditions (a) references to a party includes its successors or permitted assigns; and (b) a reference to any law is a reference to such law as amended or re-enacted (including any subordinate legislation); and (c) a person includes a natural person, corporate or unincorporated body.

2. Basis of contract

2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services from the Supplier in accordance with these Conditions. The Order shall be deemed to be accepted on the earlier of (a) the Supplier issuing written acceptance of the Order; or (b) any act by the Supplier consistent with fulfilling the Order; at which point and on which date the Contract shall come into existence ("**Commencement Date**"). All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

2.2 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate (such as conditions of sale), or which are implied by trade, custom, practice or course of dealing. By supplying Goods and/or Services to the Customer, the Supplier irrevocably agrees to these conditions notwithstanding any references to the contrary or other terms (such as conditions of sale) in any acknowledgement of order.

3. Supply of Goods

3.1 The Supplier shall ensure that the Goods shall: (a) correspond with their description and any applicable Goods Specification; (b) be of satisfactory quality (as per the Sale of Goods Act

1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgment; (c) be free from defects in design, materials and workmanship and remain so for 12 months after delivery (unless a longer period is agreed); and (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

3.2 The Customer shall have the right to inspect and test the Goods at any time before delivery. If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Customer shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. Delivery of Goods

4.1 The Supplier shall ensure that: (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition; and (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

4.2 In respect of domestic contracts the Supplier shall deliver the Goods (a) on the date specified in the Order; (b) to the Customer's premises at the address set out in the Order or such other location as instructed by the Customer before delivery ("**Delivery Location**"); and (c) during the Customer's normal hours of business on a Business Day, or as instructed by the Customer.

4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

4.4 Where the goods are being supplied from overseas then the Customer shall specify the applicable Incoterm that will apply in its Order (using INCOTERMS® 2010).

4.5 If the Supplier delivers more than the quantity of Goods ordered, the Customer may at its sole discretion reject all the Goods or just the excess Goods; and in either case any rejected Goods shall be returnable at the Supplier's risk and expense. If the Customer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

4.6 If the Supplier intends to make delivery of the Goods in instalments then the Supplier shall inform the Customer in writing (providing reasonable notice) and such notice shall also set out the delivery / instalment dates and the amounts of Goods to be delivered by each instalment. Failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 6.1.

4.7 Title and risk in the Goods shall pass to the Customer on completion of delivery.

5. Supply of Services

5.1 The Supplier shall from the Commencement Date or such other date as agreed by the parties and for the duration of this Contract provide the Services to the Customer in accordance with the terms of the Contract.

5.1 The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all Intellectual Property

Rights in the products of the Services, including for the avoidance of doubt the Deliverables.

5.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Customer. In providing the Services, the Supplier shall:

- 5.2.1 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- 5.2.2 use personnel who are suitably skilled and experienced and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
- 5.2.3 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Customer;
- 5.2.4 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 5.2.5 use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- 5.2.6 comply with all applicable laws and regulations; and
- 5.2.7 hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier ("**Customer Materials**") in safe custody at its own risk, until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation.

6. Customer remedies

6.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, the Customer shall, without limiting its other rights or remedies, have one or more of the following rights:

- 6.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier; and
- 6.1.2 to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting its other rights or remedies, the Customer shall have one or more of the following rights, whether or not it has accepted the Goods:

- 6.2.1 to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- 6.2.2 to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 6.2.3 to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- 6.2.4 to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- 6.2.5 to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and
- 6.2.6 to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 3.1.

6.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the

Supplier. The Customer's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

7. Charges and payment

7.1 **The price for the Goods:** (a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and (b) shall be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by the Customer. No extra charges shall be effective unless agreed in writing and signed by the Customer.

7.2 **The charges for the Services:** shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

7.3 In respect of Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

7.4 Unless otherwise agreed by the Customer in writing, the Customer shall pay the invoiced amounts by the end of the month following the month in which the invoice was properly rendered and received by the Customer.

7.5 All amounts payable by the Customer under the Contract are exclusive of valued added tax ("**VAT**"). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

7.6 The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier whether or not either liability arises under the Contract.

8. Indemnity

8.1 The Supplier shall keep the Customer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered incurred by the Customer as a result of or in connection with:

8.1.1 any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

8.1.2 any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and

8.1.3 any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.

9. Confidentiality

The Supplier shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or

initiatives which are of a confidential nature and have been disclosed to it by the Customer its employees, agents or subcontractors, and any other confidential information concerning the Customer's business, its products and services which the Supplier may obtain.

10. Termination

- 10.1 Customer may terminate the Contract for convenience in whole or in part by giving Supplier thirty (30) calendar days written notice. In such event Customer shall pay to Supplier the value of the delivered but unpaid Goods and/or Services and proven direct cost reasonably incurred by Supplier for the undelivered Goods and/or Services, however in no event more than the price for the Goods and/or Services agreed under the Contract. No further compensation will be due to Supplier.
- 10.2 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- 10.2.1 the Supplier commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of receipt of notice in writing to do so;
 - 10.2.2 the Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
 - 10.2.3 the Customer has genuine concerns as to the financial position of the Supplier;
 - 10.2.4 the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 10.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

11. Consequences of termination

On termination of the Contract for any reason, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

12. Force majeure

- 12.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from an event, circumstances or cause beyond its reasonable control ("**Force Majeure Event**"). The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations. If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 20 Business Days, the Customer may terminate the Contract immediately by giving written notice to the Supplier.

13. General

- 13.1 **Assignment and other dealings:** The Customer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Customer.
- 13.2 **Severance:** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 13.3 **Waiver:** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 13.4 **Third parties:** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 13.5 **Variation:** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer.
- 13.6 **Law:** The Contract and any dispute arising or matter relating to it shall be governed by and construed in accordance with the laws of England. Each party irrevocably agrees to the jurisdiction of the courts of England.